

REMARKS/ARGUMENTS

Claims 1-9, 11-20, 22-30, 32-44, 46-50 are currently pending in the instant application. Claims 1, 13, 26, and 37 have been amended.

No new matter has been added by the amendments to the claims made herein. Support for these amendments can be found in the specification as originally filed, see for example, page 42, lines 6-14; page 43, lines 11-20; page 46, line 4- page 47, line 11.

In response to the Office Action of June 30, 2008, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. § 132.

Rejection under 35 USC § 103(a)

Claims 1-9, 11-12, 26-30 and 32-36 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Cohen et al.*, US 5,173,218. *Cohen et al.* (column 1, line 51; to column 2, line 7; column 2, lines 44 et seq; column 3, lines 12-36 and 40; column 4, lines 13 et seq; column 5, lines 66; examples and claims) is alleged to disclose the formation of a porous flexible plasticized structure (column 1, lines 53 et seq) employing chemiluminescent compositions with multiple particle size distributions of polymeric particles. *Cohen et al.* (column 3, lines 13-36) is further alleged to disclose methods of making the materials and characterizes the slurry compositions as capable of being cast, molded, extruded and blow molded.

Said characterization appears to be consistent with a "fluidized solid" as claimed.

The Examiner alleges that the patent to *Cohen et al.* differs from the claims in the characterization of the slurry composition as a "fluidized solid" and functional language defining the amount of second particulate effective to yield a fluidized solid admixture. *Cohen et al.* (examples, particularly example 1) is alleged to disclose the formation of a thick paste of a fine particle size (200 nm to 1.5 microns) followed by curing and the addition of a second particle size (medium size 70-75 microns and large 150 microns) to form a very thick smooth mixture. The Examiner, therefore, concludes that it would have been obvious to one of ordinary skilled in the art at the time of applicants' invention to employ paste or thixotropic slurries with the multiple particle size polymers disclosed in the *Cohen et al.* reference as very thick smooth mixtures.

Claims 13-20, 22-25, 37-44 and 46-50 stand rejected under 35 U.S.C. §.103(a) as allegedly being unpatentable over *Cohen et al.*, US 5,173,218, as applied to claims 1-12 and 25-37 above, and further in view of *Holland et al.*, US 5,158,349, and *Roberts*, US 3,808,414.

The Examiner also alleges that *Cohen et al.* differs from claims 13-25 and 37-45 in the multidimensional chemiluminescent reactive system wherein the reactants are separate until the desired time of use. The Examiner indicates that *Holland et al.* (figures and columns 2-5) and *Roberts* (figures and column 2, lines 1-37, particularly 16-20) disclose chemiluminescent package systems which include systems having multiple compartments that may be open to mixing reactive components. *Holland et al.* discloses concentric tubules, wherein when the inner tubule is ruptured, the chemiluminescent materials react resulting in chemiluminescence. *Roberts* discloses a package, wherein when the clip is removed the reactive components mix and react resulting in chemiluminescence.

The Examiner further indicates that these references are combinable because they teach chemiluminescent compositions, methods of making and packaging therefore. It would have been obvious to one of ordinary skilled in the art at the time of applicants' invention to employ multicomponent packages of *Holland et al.* and *Roberts* for the *Cohen et al.* materials to form a chemiluminescent effect and the advantage of storage and preserving said chemiluminescent effect until a desired time.

Applicants wish to thank Examiner for indicating that Applicants' response to the previous Office Action by amending the independent claims to define compositions having sufficient cohesive property to permit the compositions to be formed into a desired shape both with and without a mold is an alternative limitation that would be deemed allowable upon further amendment of the claims. Consequently, Applicants have amended independent Claims 1, 13, 26, and 37 to include the limitation that "sufficient cohesive properties that allow said composition to be formed into a desired shape without a mold." Claims 2-9, 10-12, 14-20, 22-25, 27 -30, 32-36, 38 44, 46-50 are dependent on Independent Claims 1, 13, 26, or 27.

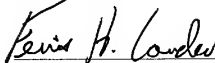
Accordingly, it is respectfully submitted that the claims, as instantly amended, are now free of the prior art rejection; Applicants request that rejections based on 35 U.S.C. § 103 now be withdrawn.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested. Should there be any remaining issues which can be resolved via an Examiner's Amendment; the Examiner is urged to call the undersigned in order to expedite the prosecution of this application.

The Commissioner for Patents is hereby authorized to charge any deficiency in any fees due or credit any overpayments in any fees paid on the filing to Deposit Account No. 13-0439.

Respectfully submitted,



Ferris H. Lander

Registration No. 43,377

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410
(561) 625-6575 (Voice)
(561) 625-6572 (Fax)